	Enrolled Copy S.B. 186
1	CUSTODY AND PARENT-TIME FOR
2	NON-PARENTS
3	2008 GENERAL SESSION
4	STATE OF UTAH
5	Chief Sponsor: Lyle W. Hillyard
6	House Sponsor: Kay L. McIff
7 8	LONG TITLE
9	General Description:
10	This bill allows persons who are related to a child and have assumed the role of parent
11	to petition the court for custody or visitation.
12	Highlighted Provisions:
13	This bill:
14	defines "person other than a parent" as a person who is related to a child;
15	 provides a procedure for a person other than a parent to gain custody or visitation;
16	 requires notice to a parent, guardian, or state agency with an interest; and
17	 provides that it may not be used against a person serving in the military who is
18	outside the state.
19	Monies Appropriated in this Bill:
20	None
21	Other Special Clauses:
22	None
23	Utah Code Sections Affected:
24	ENACTS:
25	30-5a-101 , Utah Code Annotated 1953

30-5a-102, Utah Code Annotated 1953

30-5a-103, Utah Code Annotated 1953

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30	Section 1. Section 30-5a-101 is enacted to read:
31	CHAPTER 5a. CUSTODY AND VISITATION FOR PERSONS
32	OTHER THAN PARENTS ACT
33	Part 1. General Provisions
34	<u>30-5a-101.</u> Title.
35	This chapter is known as the "Custody and Visitation for Persons Other than Parents
36	Act."
37	Section 2. Section 30-5a-102 is enacted to read:
38	<u>30-5a-102.</u> Definitions.
39	As used in this chapter:
40	(1) "Parent" means a biological or adoptive parent.
41	(2) "Person other than a parent" means a person related to the child by marriage or
42	blood, including:
43	(a) siblings;
44	(b) aunts;
45	(c) uncles:
46	(d) grandparents; or
47	(e) current or former step-parents, or any of the persons in Subsections (2)(a) through
48	(d) in a step relationship to the child.
49	Section 3. Section 30-5a-103 is enacted to read:
50	30-5a-103. Custody and visitation for persons other than a parent.
51	(1) In accordance with Section 62A-4a-201, it is the public policy of this state that
52	parents retain the fundamental right and duty to exercise primary control over the care,
53	supervision, upbringing, and education of their children. There is a rebuttable presumption that
54	a parent's decisions are in the child's best interests.
55	(2) A court may find the presumption in Subsection (1) rebutted and grant custodial or
56	visitation rights to a person other than a parent who, by clear and convincing evidence, has
57	established all of the following:

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58	(a) the person has intentionally assumed the role and obligations of a parent;
59	(b) the person and the child have formed an emotional bond and created a parent-child
60	type relationship;
61	(c) the person contributed emotionally or financially to the child's well being;
62	(d) assumption of the parental role is not the result of a financially compensated
63	surrogate care arrangement;
64	(e) continuation of the relationship between the person and the child would be in the
65	child's best interests;
66	(f) loss or cessation of the relationship between the person and the child would be
67	detrimental to the child; and
68	(g) the parent:
69	(i) is absent; or
70	(ii) is found by a court to have abused or neglected the child.
71	(3) A proceeding under this chapter may be commenced by filing a verified petition, or
72	petition supported by an affidavit, in the juvenile court if a matter is pending, or in the district
73	court in the county in which the child:
74	(a) currently resides; or
75	(b) lived with a parent or a person other than a parent who acted as a parent within six
76	months before the commencement of the action.
77	(4) A proceeding under this chapter may be filed in a pending divorce, parentage action,
78	or other proceeding, including a proceeding in the juvenile court, involving custody of or
79	visitation with a child.
80	(5) The petition shall include detailed facts supporting the petitioner's right to file the
81	petition including the criteria set forth in Subsection (2) and residency information as set forth in
82	Section 78B-13-209.
83	(6) A proceeding under this chapter may not be filed against a parent who is actively
84	serving outside the state in any branch of the military.
85	(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with

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86	the rules of civil procedure on all of the following:
87	(a) the child's biological, adopted, presumed, declarant, and adjudicated parents;
88	(b) any person who has court-ordered custody or visitation rights;
89	(c) the child's guardian;
90	(d) the guardian ad litem, if one has been appointed;
91	(e) a person or agency that has physical custody of the child or that claims to have
92	custody or visitation rights; and
93	(f) any other person or agency that has previously appeared in any action regarding
94	custody of or visitation with the child.
95	(8) The court may order a custody evaluation to be conducted in any action brought
96	under this chapter.
97	(9) The court may enter temporary orders in an action brought under this chapter
98	pending the entry of final orders.